

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
v.                            )      Criminal Action No.  
                                )      10-00162-06-16-CR-W-FJG  
NARICCO SCOTT,             )  
and                            )  
THEODORE WIGGINS,        )  
                                )  
Defendants.                )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on February 1, 2012. Defendant Naricco Scott appeared in person and with counsel Robin Fowler. Defendant Theodore Wiggins appeared in person and with counsel Michael Walker. The United States of America appeared by Assistant United States Attorneys Brent Venneman and Sydney Sanders.

***I. BACKGROUND***

On June 7, 2011, a second superseding indictment was returned charging defendant Scott with one count of conspiracy to distribute cocaine and crack cocaine, in violation of 21 U.S.C. § 846; two counts of distributing crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); one count of possession with intent to distribute crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A); and one count of possessing a firearm in furtherance of drug trafficking crimes, in violation of 18 U.S.C. § 924(c). Defendant Wiggins is charged with one count of conspiracy to distribute cocaine and

crack cocaine, in violation of 21 U.S.C. § 846, and one count of distributing cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

The following matters were discussed and action taken during the pretrial conference:

## ***II. TRIAL COUNSEL***

Mr. Venneman announced that he and Ms. Sanders will be the trial counsel for the government. The case agents to be seated at counsel table are Detective Don Stanzi, Kansas City, Missouri, Police Department, and Special Agent Scott Francis, Department of Homeland Security.

Mr. Fowler announced that he will be the trial counsel for defendant Naricco Scott.

Mr. Walker announced that he will be the trial counsel for defendant Theodore Wiggins.

## ***III. OUTSTANDING MOTIONS***

The following motions remain pending:

1. Motion to suppress, filed by defendant Naricco Scott (document number 451). Report and Recommendation was filed on January 6, 2012 (document number 578) and objections to the Report and Recommendation were filed on January 20, 2012 (document number 594).

2. Motion to continue, filed by Theodore Wiggins (document number 604).

Defendant Naricco Scott filed a motion to exclude 404(b) evidence on January 23; however, the Clerk's office deleted the motion as improperly filed. To date it has not been refiled but may be.

#### **IV. *TRIAL WITNESSES***

Mr. Venneman announced that the government intends to call 35 witnesses without stipulations during the trial.

Mr. Fowler announced that defendant Naricco Scott intends to call no witnesses during the trial. The defendant may testify.

Mr. Walker announced that defendant Theodore Wiggins intends to call 3 witnesses during the trial. The defendant may testify.

#### **V. *TRIAL EXHIBITS***

Mr. Venneman announced that the government will offer approximately 150 exhibits in evidence during the trial.

Mr. Fowler announced that defendant Naricco Scott will offer no exhibits in evidence during the trial.

Mr. Walker announced that defendant Theodore Wiggins will offer approximately 10 exhibits in evidence during the trial.

#### **VI. *DEFENSES***

Mr. Fowler announced that defendant Naricco Scott will rely on the defense of general denial.

Mr. Walker announced that defendant Theodore Wiggins will rely on the defense of general denial.

#### **VII. *POSSIBLE DISPOSITION***

Mr. Fowler stated this case may be for trial.

Mr. Walker stated this case is definitely for trial.

## **VIII. STIPULATIONS**

Stipulations are not likely. Both defendants have refused to enter into any stipulations.

## **IX. TRIAL TIME**

Counsel were in agreement that this case will take 5 days to try.

## **X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed October 22, 2010, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before February 1, 2012;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, February 8, 2012;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions<sup>1</sup> by or before noon, Wednesday, February 8, 2012. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

## **XI. UNUSUAL QUESTIONS OF LAW**

No motions in limine are anticipated. There are no unusual questions of law.

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<sup>1</sup>Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the forthcoming trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn\_shawver@mow.uscourts.gov and rhonda\_enss@mow.uscourts.gov by Friday, February 10, 2012. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

## **XII. TRIAL SETTING**

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on February 13, 2012. (This case has been specially set before Judge Gaitan commencing February 21, 2012).

/s/ Robert E. Larsen

ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
February 1, 2012

cc: Mr. Jeff Burkholder